

Message Text

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PAGE 01 DUBAN 00359 191414Z
ACTION AF-10

INFO OCT-01 IO-14 ISO-00 CIAE-00 DODE-00 PM-05 H-02
INR-10 L-03 NSAE-00 NSC-05 PA-02 SP-02 SS-15
ICA-20 HA-05 MCT-01 ACDA-12 /107 W
-----125547 191441Z /50

R 191352Z JUN 78
FM AMCONSUL DURBAN
TO SECSTATE WASHDC 2955
INFO AMEMBASSY PRETORIA
AMCONSUL CAPE TOWN
AMCONSUL JOHANNESBURG
USMISSION GENEVA
USMISSION USUN NEW YORK

UNCLAS DURBAN 0359

CAPE TOWN ALSO FOR EMBASSY

EO 11652: NA
TAGS: PINT, PINS, SHUM, SF
SUBJ: BLACK CONVICTED IN TERRORISM TRIAL

REF: A. DURBAN A-36 B. DURBAN 093

1. VUSUMUZI L. MBATHA (28) WAS CONVICTED IN PIETERMARITZBURG SUPREME COURT JUNE 16 OF AN OFFENSE AGAINST THE TERRORISM ACT (RECRUITING PERSONS TO LEAVE S.A. TO UNDERGO MILITARY TRAINING) AND WAS SENTENCED TO FIVE YEARS IMPRISONMENT. PRESIDING JUDGE THIRION, CITING UNREALIABILITY OF EVIDENCE OF SEVERAL STATE WITNESSES, ACQUITTED MBATHA OF THREE OTHER CHARGES UNDER THE TERRORISM AND INTERNAL SECURITY ACTS (REFAIR).

2. IN HIS JUDGMENT THIRION SAID THE FEAR OF INDEFINITE DETENTION MUST HAVE BEEN A "POWERFUL MOTIVATION TO GIVE EVIDENCE THAT WOULD SATISFY THE POLICE" FOR SEVERAL STATE WITNESSES. HE ADDED THAT HE WAS CONVINCED THE MAIN STATE
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PAGE 02 DUBAN 00359 191414Z

WITNESS WAS SUBJECTED TO "CONSIDERABLE DISCOMFORT" BY THE SECURITY POLICE DURING HIS INTERROGATION. NEVERTHELESS THIRION ACCEPTED THE INCRIMINATING EVIDENCE OF THREE WITNESSES BECAUSE IT HAD HELD UP UNDER CROSS-EXAMINATION. HE IMPLIED, HOWEVER, THAT SINCE MBATHA HAD REFORMED HIMSELF AND SINCE THE CASE AGAINST HIM WAS WEAK, HE WOULD HAVE GIVEN MBATHA A SHORTER SENTENCE HAD NOT THE LAW REQUIRED A MINIMUM OF FIVE YEARS.

THIRION THEN GRANTED MBATHA'S ATTORNEY'S REQUEST TO APPEAL
THE DECISION.

3. COMMENT: THIS IS THE SECOND PIETERMARITZBURG SECURITY-
RELATED TRIAL THIS YEAR IN WHICH MOST OF THE CHARGES WERE
DISMISSED BECAUSE OF A WEAK STATE CASE AND POLICE INTERFERENCE
WITH WITNESSES (REFTEL).
FARBER

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NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TRIALS, TERRORISTS
Control Number: n/a
Copy: SINGLE
Draft Date: 19 jun 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 jan 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978DURBAN00359
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780255-0172
Format: TEL
From: DURBAN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780645/aaaabnci.tel
Line Count: 70
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 51034186-c288-dd11-92da-001cc4696bcc
Office: ACTION AF
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 78 DURBAN A-36
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 29 mar 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2303040
Secure: OPEN
Status: NATIVE
Subject: BLACK CONVICTED IN TERRORISM TRIAL
TAGS: PINT, PINS, SHUM, SF
To: STATE
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/51034186-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014